

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

CORNELIA BRISKEY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:17-CV-820-WHA
)	[WO]
LANETT POLICE DEPARTMENT,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff was an inmate incarcerated at the Chambers County Detention Facility when he filed this 42 U.S.C. § 1983 complaint on December 4, 2017.¹ After reviewing the complaint and finding deficiencies with this pleading, the court determined Plaintiff should be provided an opportunity to file an amended complaint. On January 3, 2018, the court entered a detailed order explaining the deficiencies in the complaint and providing Plaintiff with specific instructions regarding filing an amended complaint. Doc. 6. On March 26, 2018, the court granted Plaintiff additional time to comply with the order directing him to file an amended complaint. Doc. 12.

The time allowed Plaintiff to file the amended complaint expired on April 10, 2018. On April 25, 2018, the court entered an order directing Plaintiff to show cause by May 7, 2018, why the complaint should not be dismissed for his failures to comply with the orders of the court and to prosecute this action. Doc. 13. As of the present date, Plaintiff has not filed an amended complaint as required by this court, nor has he filed a response to the April 25 order to show cause.

Because of Plaintiff's failure to comply with the orders of the court directing him to file an amended complaint, the court concludes that this case should be dismissed. *Tanner v. Neal*, 232

¹ Since filing the complaint Plaintiff has been released from custody.

Fed. App'x 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate's § 1983 action for failure to file an amended complaint in compliance with court's prior order directing amendment and warning of consequences for failure to comply); *see also Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (As a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failure to comply with the order of the court and to prosecute this action.

It is further

ORDERED that **on or before July 14, 2018**, Plaintiff may file an objection to the Recommendation. Plaintiff must specifically identify the factual findings and legal conclusions in the Recommendation to which he objects. Plaintiff is advised that frivolous, conclusive, or general objections will not be considered.

Failure to file a written objection to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a party from a *de novo* determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

Done, on this the 29th day of June, 2018.

/s/ Susan Russ Walker
Susan Russ Walker
United States Magistrate Judge